

REGISTER NUMBER: 97

NOTIFICATION FOR PRIOR CHECKING

Date of submission: 22 May 2006

Case number: 2006-241

Institution: European Central Bank

Legal basis: article 27-5 of the regulation CE 45/2001(1)

(1) OJ L 8, 12.01.2001

INFORMATION TO BE GIVEN(2)

(2) Please attach all necessary backup documents

1/ Name and adress of the controller

Head of Compensation and Staff Relations Division (Mr. Klaus Riemke)
European Central Bank
Kaiserstrasse 29
60311 Frankfurt am Main

2/ Organisational parts of the institution or body entrusted with the processing of personal data

Directorate General Human Resources, Budget and Organisation - Compensation and Staff Relations Division

3/ Name of the processing

Recording of medical information in the personal files.

4/ Purpose or purposes of the processing

In order to implement the relevant legal provisions as they are laid down in the ECB Conditions of Employment, the ECB Staff Rules, and the ECB "Rules for Recruitment", the Controller has to keep the necessary medical information sent by the ECB's Medical Adviser in the personal files.

5/ Description of the category or categories of data subjects

1. All staff members with permanent or fixed term contracts are subject to the "Conditions of Employment for staff at the ECB" and the "ECB Staff Rules"; all staff members with a short-term contract are subject to the Conditions of Short-term Employment and the Rules for Short-term Employment. Therefore all members of staff are potential data subjects for the relevant data processing operations.
2. Successful candidates who undergo the "medical clearance procedure" but finally do not take up the appointment for personal reasons other than health.
3. Children or other dependents of staff members whenever medical information concerning them is regarded as necessary for the fulfilment of a specific ECB policy (e.g. claims of higher child allowance, pension scheme).

6/ Description of the data or categories of data (*including, if applicable, special categories of data (article 10) and/or origin of data*)

Basic personal data of staff members and medical data related to their ability to fulfil their professional duties and their employment relationship with the ECB. Basic personal data and medical data of staff members' dependents (see above category 3 of data subjects) and of candidates who did not take up the appointment after the "medical clearance procedure" (for the latter only No. 7 below applies).

Those data are requested by the ECB from the Medical Adviser (in form of a confirmation letter) and are related to the following activities:

1. Assessment by the Medical Adviser of staff members' fitness to return to work after long term sick leave (6 weeks and above).
2. Assessment by the Medical Adviser of staff members' health situation related to industrial injuries or to health and safety conditions.
3. Assessment by the Medical Adviser of the health situation of staff members' dependents (see above category 3 of data subjects).
4. Assessment of medical certificates and referrals for second opinions requested by the Medical Adviser where the Medical Adviser is not satisfied with the prescribing private doctor's prognosis or where the Medical Adviser does not have the ability to judge or where it is necessary for the fulfilment of requirement imposed by specific ECB policies (e.g. disability pension).
5. Contact by the Medical Adviser with staff members who are on long term sick leave or disability.
6. ECB Medical Adviser's opinion in favour (or against) requests for reduced working hours due to medical circumstances.
7. Assessment whether a selected external candidate can take up the appointment ("medical clearance procedure").

In the case of confirmation the standard letter sent to HR only states that "there is no objection from a medical point of view to fulfil the position offered".

7/ Information to be given to data subjects

Staff members are informed about the most important provisions laid down in the Conditions of Employment for staff of the ECB and the ECB Staff Rules or Conditions of Short-term Employment and the Rules for Short-term Employment, which describe the rules and procedures related to the personal files and to the medical information requested, when they start working at the ECB in specifically organized "induction seminars". The relevant documents are also published on the ECB's intranet site. The same documents plus the relevant AC 05/2004 on the "Rules for Recruitment" are also published on the specific pages of the ECB's Website in order to be available for candidates and potential future employees.

Data subjects can contact the Controller for any additional information falling under the scope of Art. 11 and 12 of the Regulation.

8/ Procedures to grant rights of data subjects (*rights of access, to rectify, to block, to erase, to object*)

a) As to the right of access (Art. 13):

1) Once the medical information contained in certificates, Medical Adviser's confirmations/ recommendations issued by the ECB's Medical Adviser and sent to the Controller are incorporated in the personal file the general rules set out in Article 7 Conditions of Employment / Article 12 Conditions for Short-term Employment and Article 1.3 ECB Staff Rules / Article 1.3 Rules for Short-term Employment apply. According to these articles each member of staff has the right at any time, even after leaving the ECB, to access his/her personal file and consequently to the relevant medical information.

b) As to the exercise of all other rights laid down in Section 5 of the Regulation, the data subject shall contact the Controller.

9/ Automated / Manual processing operation

Personal medical data contained in the personal files undergo only manual processing operations:

Manual Processing operations take place upon the personal file of staff members where the certificates, confirmations/recommendations signed by the ECB's Medical Adviser are filed as original.

According to the ECB Staff Rules, there shall be only one personal file for each member of staff. The details regarding the handling of personal files of staff members can be found in Article 1.3 of the ECB Staff Rules / Article 1.3 of the Rules for Short-term Employment. The medical file does not form part of the personal file. The medical file shall be retained by the ECB's Medical Adviser, who will be solely responsible for it.



10/ Storage media of data Hard copy
11/ Legal basis and lawfulness of the processing operation -Conditions of Employment for staff of the ECB (especially Art. 31, Art. 32) / Conditions of Short-term Employment (especially Art. 28) and ECB Staff Rules (especially Art. 5.13) / Rules for Short-term Employment (especially Art. 5.10), Art 8 (8.1) of Administrative Circular 05/2004 on Rules for Recruitment. The processing operation is lawful according to
12/ The recipients or categories of recipient to whom the data might be disclosed As concerns data contained in the personal file according to the Staff rules/Rules for Short-term Employment the only recipients of the documents in the personal file can be: a) The member of staff concerned b) Members of the Executive Board; c) Members of staff who, for professional reasons, need to have access to the information contained in the file and whose access is authorised by the Director General Human Resources, Budget and Organisation or his/her Deputy Director General. These parties will be subject to the legal obligation of professional secrecy; d) A member of staff may authorise the Director General Human Resources, Budget and Organisation or his/her Deputy Director General - subject to the approval of the Executive Board - to make his/her personal file available to third parties.
13/ retention policy of (categories of) personal data As concerns data contained in the personal files, files shall be destroyed 10 years after staff members have left the ECB if there are no pending claims or any other still open issues concerning their ECB employment relationship. The personal file of pensioners will be destroyed 10 years after the end of the year in which the last ECB pension payment was made to either the pensioner or one of his entitled dependants, respectively, provided that there are no pending claims or other still open issues.
13 a/ time limits for blocking and erasure of the different categories of data (on justified legitimate request from the data subject) (Please, specify the time limits for every category, if applicable) There is no special period foreseen for blocking/erasing the data. Different categories of data: n/a
14/ Historical, statistical or scientific purposes <i>If you store data for longer periods than mentioned above, please specify, if applicable, why the data must be kept under a form which permits identification,</i> There are no specific rules or procedures in place concerning longer storage periods for historical, statistical or scientific purposes.
15/ Proposed transfers of data to third countries or international organisations There are no proposed transfers of data to third countries or international organisations.
16/ The processing operation presents specific risk which justifies prior checking (<i>please describe</i>): AS FORESEEN IN: <input checked="" type="checkbox"/> Article 27.2.(a) Processing of data relating to health and to suspected offences, offences, criminal convictions or security measures, Article 27.2.(b) Processing operations intended to evaluate personal aspects relating to the data subject,

Article 27.2.(c)

Processing operations allowing linkages not provided for pursuant to national or Community legislation between data processed for different purposes,

Article 27.2.(d)

Processing operations for the purpose of excluding individuals from a right, benefit or contract,

Other (general concept in Article 27.1)

17/ Comments

a) Currently, medical information in form of medical certificates related to sick leave (and issued by the staff member's doctor) is also kept in the personal file. In order to be compliant with the EDPS's opinion of 23 September 2005 (Recording of the absences of ECB staff members unable to work because of illness or accident, case 2004-277) the responsible Controller in Directorate General Human Resources, Budget and Organisation is being developing a procedure for storing the sick leave certificates of staff members outside the personal file.

b) Please note that the following medical information is already now stored outside the personal file:

- In case where for selected candidates, who, due to health reasons, are not recognised by the ECB's Medical Adviser as being able to perform the tasks, no personal file is opened; medical information is kept with the Medical Adviser. Only the Medical Adviser's standard letter which in this case would not support the appointment would be attached to the recruitment file.

- Medical certificates relating to third parties are submitted and processed manually in cases where the member of staff requests special leave to take care of a sick relative (Art. 5.10.2 and 5.10.3 of the ECB Staff Rules). Such medical data is not filed in the personal file but with the request for special leave.

c) Processing operations related to medical files kept by the ECB's Medical Adviser are notified separately in the prior checking notification on "Medical files kept by the ECB's Medical Adviser".

PLACE AND DATE: Frankfurt am Main, 17 May 2006

DATA PROTECTION OFFICER: Wolfgang Sommerfeld *[signed]*

INSTITUTION OR BODY: European Central Bank